

UNITED STATES DISTRICT COURT
DISTRICT OF MASSACHUSETTS

ALTAGRACIA J. PEGUERO,

Plaintiff,

v.

AMERICAN EXPRESS COMPANY and
HEALTHEXTRAS, INC.,

Defendants

Civil Action No. 05-10995-WGY

**DEFENDANT AMERICAN EXPRESS COMPANY'S
MOTION FOR SUMMARY JUDGMENT**

Pursuant to Rule 56 of the Federal Rules of Civil Procedure, Defendant American Express Company ("American Express") hereby moves for an award of summary judgment dismissing all claims with prejudice asserted against it by Plaintiff. Plaintiff has asserted similar claims against defendant HealthExtras, Inc. ("HealthExtras"). HealthExtras filed a motion for summary judgment on April 13, 2007. Given the similarity of the claims, in support of its motion, American Express incorporates and adopts the facts and legal arguments set forth in HealthExtras, Inc.'s motion for summary judgment and joins in the relief requested therein.

Respectfully submitted,

AMERICAN EXPRESS COMPANY,

By its attorneys:

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CERTIFICATE UNDER LOCAL RULE 7.1(a)(2)

By certificate dated April 13, 2007, counsel for co-defendant HealthExtras, Inc. stated that he had conferred with plaintiff's counsel in good faith in an attempt to resolve or narrow the issues presented in HealthExtra's motion for summary judgment. Since American Express is joining in HealthExtras' motion, and in light of the earlier Rule 7.1 conference, American Express does not believe it has any further obligation to confer under Rule 7.1. Nevertheless, undersigned counsel called and e-mailed plaintiff's counsel, Kevin Donius, several times on April 16, 2007 to discuss this motion, but was not able to reach Attorney Donious.

/s/ John F. Farraher Jr.
John F. Farraher

CERTIFICATE OF SERVICE

I hereby certify that the foregoing document filed through the ECF system will be sent electronically to the registered participants as identified on the Notice of Electronic Filing (NEF), and paper copies will be sent, via First-Class Mail, those indicated as non-registered participants on this 16th day of April, 2007.

/s/ John F. Farraher Jr.
John F. Farraher

Dated: April 16 , 2007